

PR#9833

PARRISH, DANIEL

1/14/2008

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1 IN THE UNITED STATES DISTRICT COURT
2 FOR THE NORTHERN DISTRICT OF OKLAHOMA

3 STATE OF OKLAHOMA, ex rel.
4 W.A. DREW EDMONDSON, in his capacity as
5 ATTORNEY GENERAL OF THE STATE OF
6 OKLAHOMA, and OKLAHOMA SECRETARY
7 OF THE ENVIRONMENT C. MILES TOLBERT,
8 in his capacity as the TRUSTEE FOR NATURAL
9 RESOURCES FOR THE STATE OF OKLAHOMA,

10 Plaintiffs,

11 vs.

No. 05-CV-0329 GFK-SAJ

12 TYSON FOODS, INC., TYSON POULTRY, INC.,
13 TYSON CHICKEN, INC., COBB-VANTRESS, INC.,
14 AVIAGEN, INC., CAL-MAINE FOODS, INC.,
15 CAL-MAINE FARMS, INC., CARGILL, INC.,
16 CARGILL TURKEY PRODUCTION, LLC,
17 GEORGE'S, INC., GEORGE'S FARMS, INC.,
18 PETERSON FARMS, INC., SIMMONS FOODS, INC.,
19 and WILLOW BROOK FOODS, INC.,

20 Defendants.

21 VIDEO DEPOSITION OF DANIEL JOSEPH PARRISH
22 TAKEN ON BEHALF OF THE DEFENDANTS
23 ON JANUARY 14, 2008, BEGINNING AT 9:37 A.M.
24 IN OKLAHOMA CITY, OKLAHOMA
25

Videographer: Stephanie Britton
Reported by: Lana L. Phillips, CSR, RPR

EXHIBIT

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1 waste by law is required to receive a poultry
2 license from the Oklahoma Department of
3 Agriculture, Food, and Forestry.

4 Q All right. And there are rules and
5 -- there are rules in effect in Oklahoma that
6 dictate where, when, and how poultry litter can
7 be land-applied also; correct?

8 A Yes.

9 Q And your division is responsible for
10 oversight of the -- of those rules and their
11 implementation; correct?

12 A The AEMS division at the Department
13 of Agriculture is responsible for oversight, but
14 clearly do not have enough staff and budget to
15 even begin to oversight what we need to.

16 Q Your division has field inspectors;
17 correct?

18 A Yes.

19 Q Now, what are the primary objectives
20 of the litter utilization program that your
21 division administers?

22 A The primary objectives are, by law,
23 to ensure that poultry waste is applied at
24 agronomic rates, applied so that the crop that is
25 on the field where it's applied to can uptake the

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1 of the Illinois River watershed registered with
2 your division?

3 **A** To my knowledge, yes, they are. But
4 we do not have enough staff or budget that we've
5 spent time going up and down the road to make
6 sure every one of them is.

7 **Q** All right. So there's a possibility
8 there could be one tucked away somewhere you
9 don't know about, but the fact is you just don't
10 know if that's true or not true?

11 **A** That is right. And I say that only
12 because last year we found one, not in the
13 Illinois River watershed, but we found one that
14 hadn't been registered since this Act was put
15 into effect. So that's why I would be hesitant.

16 **Q** All right. Let's go next over to
17 Section 10-9.5. It's titled Application to
18 Register or Expand Poultry Operation.

19 **A** Yes, I'm there.

20 **Q** All right. Sub section B says:
21 "The application to register to operate a new or
22 previously unregistered poultry feeding operation
23 or expanding operation shall contain certain
24 information."

25 And then the statute lists a number

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1 infiltration through a sinkhole or at a well?

2 **A** Yes. And by sticking to the hundred
3 feet of a perennial stream, pond, well, or
4 sinkhole, it would -- by sticking to that and
5 not applying manure, it would help reduce the
6 problem of what you just referred to.

7 **Q** I mean, don't we need to -- don't we
8 need to acknowledge that there is virtually no
9 way to set up a zero loss scenario in
10 agriculture?

11 **A** It would be especially challenging
12 in Eastern Oklahoma, where there are lots of
13 rocks and lots of hills and lots of other
14 problems. It would be very challenging.

15 **Q** All right. The next bullet point:
16 "To areas within 50 feet of an intermittent
17 stream, unless an established buffer strip is
18 present." It says: "The width of the buffer
19 strip will be used as a setback distance for
20 application purposes. The buffer strip must meet
21 the requirements for design and maintenance
22 established in the appropriate NRCS buffer
23 standard and specification."

24 All right. Help me understand. In
25 practical terms, what does that mean?

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1 scope of your group would include complaints
2 related to the use of poultry litter; correct?

3 **A** Yes.

4 **Q** Now, I think you covered this to a
5 certain degree when we were talking about the
6 water well hypothetical.

7 But if a registered poultry feeding
8 operator is violating the Act, what steps are
9 available to you and ODAFF to take corrective
10 action?

11 **A** When it is determined by our
12 assessment that they are in violation of the law,
13 then we can take actions, including corrective
14 actions, including fines. Those are our general
15 that we can do.

16 However, we have four and a half --
17 "half" because that person is a half CAFO, half
18 poultry -- four and a half inspectors to inspect
19 and investigate, for many registered poultry
20 operations, anything dealing with poultry,
21 whether it's applicators. And we do not begin to
22 have enough staff or enough budget to even begin
23 to enforce the rules and the regulations.

24 **Q** All right. Well, I'm -- I have to
25 move to strike that last part of your answer, as

1 waste be disposed of in a permitted landfill,
2 rather than land-applied?

3 MR. GARREN: Object to form,
4 predicate, foundation.

5 THE WITNESS: I'm not aware of, only
6 because I've not had discussions with other state
7 regulatory people about that subject matter.

8 Q (BY MR. McDANIEL) Are you aware of
9 any poultry -- registered poultry feeding
10 operator in the Illinois River watershed who is
11 currently operating in violation of his or her
12 animal waste management plan?

13 MR. GARREN: Again, objection as to
14 form.

15 THE WITNESS: I can't answer that
16 question, because we don't have enough staff for
17 me to be able to answer that question -- that we
18 are doing constant inspections and testing all
19 that. I could not answer that question simply
20 because we do not have enough people or budget to
21 be able to determine an answer to that question.

22 Q (BY MR. McDANIEL) All right, sir.
23 And I've got to move to strike that answer.

24 The question was, sir, are you aware
25 of any poultry -- registered poultry feeding

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1 operator in the Illinois River watershed who is
2 currently operating in violation of his or her
3 animal waste management plan?

4 If you can answer it yes or no, I
5 request that you do so.

6 MR. GARREN: Same objection.

7 THE WITNESS: I cannot answer it yes
8 or no.

9 Q (BY MR. McDANIEL) You can't tell me
10 what you're aware of?

11 A I can't answer if anyone is in
12 violation of our laws and rules, because I'm not
13 out to every operation every day, nor is our
14 staff out to every operation every day.

15 There's not enough state troopers to
16 pick up everybody that's speeding on the roads.

17 Q I understand that point, sir, and
18 it's been made multiple times by you.

19 My question is: Are you aware of
20 any operator -- poultry operator in the watershed
21 that is currently in violation of their plan?

22 A I am not aware of any today. But
23 that answer can only be said by saying that we do
24 not have enough staff to be able to determine
25 that on a daily, hourly basis.